

STATE OF RHODE ISLAND

PROVIDENCE, SC.

SUPERIOR COURT

[FILED: August 4, 2023]

DALE RANKIN,

*Plaintiff,*

v.

THE DEPARTMENT OF BUSINESS  
REGULATION,

*Defendant.*

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C.A. No. PC-2020-02161

**DECISION**

**CRUISE, J.** Before the Court for decision is the Department of Business Regulation's (Defendant or DBR) motion to dismiss the Complaint pursuant to Rule 12(b)(6), Rule 8(a), and Rule 10(b) of the Superior Court Rules of Civil Procedure.

**I**

**Facts and Travel**

On April 19, 2019, Dale Rankin (Plaintiff) applied to the DBR for a public adjuster's license (the Application) which the DBR granted (Plaintiff's License). (Compl. 32.<sup>1</sup>) Sometime thereafter, the DBR was notified that Plaintiff's contractor's registration had been revoked by the Contractors' Registration and Licensing Board in 2017, which prompted the DBR to review the Application to see how Plaintiff had answered whether he was previously involved in an

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<sup>1</sup> The Complaint lacks pagination and does not include numbered paragraphs; therefore, any citation to the Complaint is to the page number of the PDF document.

Additionally, filed with the Complaint are what appears to be written exhibits (although not separately identified) which the Court is permitted to consider when ruling on a Rule 12(b)(6) motion because "documents attached to a complaint [are] deemed incorporated therein by reference." *Bowen Court Associates v. Ernst & Young, LLP*, 818 A.2d 721, 725 (R.I. 2003); *see also* Super. R. Civ. P. 10(c) ("[a] copy of any written instrument which is an exhibit to a pleading is part thereof for all purposes").

administrative proceeding regarding a professional or occupational license. *Id.* In the Application, Plaintiff had answered “no” to said question. *Id.* On April 29, 2019, the DBR issued (1) an emergency order summarily suspending Plaintiff’s License, (2) an order to show cause why Plaintiff’s License should not be revoked, (3) a notice of appointment of a hearing officer, and (4) a notice of a pre-hearing conference to Plaintiff. *Id.* at 31. A hearing was held on November 18, 2019 and Plaintiff represented himself *pro se* at that hearing. *Id.* On February 3, 2020, the DBR issued its decision revoking Plaintiff’s License pursuant to G.L. 1956 §§ 27-10-12(1) and 27-10-12(3) (the Decision) because Plaintiff had failed to disclose his disciplinary history from the Contractors’ Registration and Licensing Board upon submission of the Application. *See id.* at 42-43.

On March 4, 2020, Plaintiff filed a Complaint *pro se* that is purportedly seeking an administrative appeal of the Decision.<sup>2</sup> *Id.* at 1-7. On April 17, 2020, the DBR filed the Certification of Records in conformity with G.L. 1956 §§ 42-35-9(e) and 42-35-15(d). (Docket.) On October 27, 2022, after nearly two and a half years of inactivity, Plaintiff filed a motion asking the Court to overturn the Decision. *Id.*; *see also* Motion (Oct. 27, 2022). Defendant objected to said motion on November 1, 2022, and in the objection, Defendant suggested that the Court set a briefing schedule in the event that Plaintiff’s motion is actually an attempt to proceed with his purported administrative appeal. *Id.*; *see also* Defendant Department of Business Regulation’s Objection to Plaintiff’s Motion to Reconsider. On November 7, 2022, a hearing was held on Plaintiff’s motion and the Court (1) denied Plaintiff’s motion and (2) set a briefing schedule that

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<sup>2</sup> The Complaint does not include any reference to the Administrative Procedures Act codified at chapter 35 of title 42, nor does Plaintiff assert that he is asking this Court to review the Decision. *See generally* Compl.

instructed Plaintiff to file his memorandum on or before November 21, 2022 and Defendant to file its memorandum on or before December 5, 2022. (Order (Nov. 29, 2022).)

Plaintiff has not filed his brief nor any other documents in support of his Complaint. *See generally* Docket. On December 5, 2022, Defendant moved to dismiss the Complaint pursuant to Rules 12(b)(6), 8(a), and 10(b) of the Superior Court Rules of Civil Procedure (Defendant's Motion) and submitted a memorandum of law in support thereof. *Id.* Defendant's memorandum also includes its arguments in support of its position with respect to the purported administrative appeal. *See generally* Defendant Department of Business Regulation's Memorandum of Law with Respect to Plaintiff's Purported Administrative Appeal (Def.'s Mem.). Plaintiff did not respond to Defendant's Motion. *See generally* Docket.

On May 9, 2023, Defendant filed a motion to assign the purported agency appeal for decision. *Id.* Plaintiff, once again, did not file anything in response to the DBR's motion to assign. *See generally id.* The Court granted the motion to assign on May 15, 2023. *Id.* Neither party requested oral argument on Defendant's Motion or the purported administrative appeal.

## **II**

### **Standard of Review**

#### **A**

##### **Rule 12(b)(6)**

“The sole function of a motion to dismiss is to test the sufficiency of the complaint.” *EDC Investment, LLC v. UTGR, Inc.*, 275 A.3d 537, 542 (R.I. 2022) (quoting *Pontarelli v. Rhode Island Department of Elementary and Secondary Education*, 176 A.3d 472, 476 (R.I. 2018)). In ruling on a motion to dismiss, the trial justice is normally “confined to the four corners of the complaint and must assume all allegations are true, resolving any doubts in plaintiff's favor.” *Narragansett*

*Electric Co. v. Minardi*, 21 A.3d 274, 278 (R.I. 2011). ““A motion to dismiss may be granted only when it is established beyond a reasonable doubt that a party would not be entitled to relief from the defendant under any set of conceivable facts that could be proven in support of its claim.”” *Chase v. Nationwide Mutual Fire Insurance Company*, 160 A.3d 970, 973 (R.I. 2017) (quoting *Tri-Town Construction Company, Inc. v. Commerce Park Associates 12, LLC*, 139 A.3d 467, 478 (R.I. 2016)).

Rule 12(b)(6) “does not deal with the likelihood of success on the merits, but rather with the viability of a plaintiff’s bare-bones allegations and claims as they are set forth in the complaint.” *Hyatt v. Village House Convalescent Home, Inc.*, 880 A.2d 821, 823 (R.I. 2005). However, when drafting a complaint in a civil action, the drafter is “not required to draft the pleading with a high degree of factual specificity.” *Id.* at 824.

“That is not to say, however, that the drafter of a complaint has no responsibilities with respect to providing some degree of clarity as to what is alleged; due process considerations are implicated, and we require that ‘the complaint give the opposing party *fair and adequate notice* of the type of claim being asserted.’” *Id.* (quoting *Butera v. Boucher*, 798 A.2d 340, 353 (R.I. 2002)).

## **B**

### **Rule 8(a)**

Under Rule 8(a) of the Superior Court Rules of Civil Procedure, a claim for relief need be only “(1) a short and plain statement of the claim showing that the pleader is entitled to relief, and (2) a demand for judgment for the relief to which he or she deems himself entitled.” *Haley v. Town of Lincoln*, 611 A.2d 845, 848 (R.I. 1992); *see also* Super. R. Civ. P. 8(a). A plaintiff “is not required to plead the ultimate facts that must be proven in order to succeed on the complaint . . . [and] is also not obligated to set out the precise legal theory upon which his or her claim is based.”

*Id.* Instead, a complaint must “give the opposing party fair and adequate notice of the type of claim being asserted.” *Id.*

## **C**

### **Rule 10(b)**

Under Rule 10(b) of the Superior Court Rules of Civil Procedure, “[a]ll averments of claim . . . shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings.” Super. R. Civ. P. 10(b).

## **III**

### **Analysis**

Defendant argues that the Complaint should be dismissed pursuant to Rules 12(b)(6), 8(a) and 10(b) of the Superior Court Rules of Civil Procedure because the Complaint fails to “establish any appellate basis in the law upon which to review the Hearing Officer’s Decision.” (DBR’s Mem. 4.) In support, Defendant submits that (1) Plaintiff failed to mention “any statutory basis for his appeal, nor does he request any relief from the Court,” (2) the Complaint is not set out in numbered paragraphs as required by Rule 10(b) of the Superior Court Rules of Civil Procedure, and (3) the Complaint does not set forth short and plain statements showing that Plaintiff is entitled to relief, which is not in compliance with Superior Court Rule 8(a) of Civil Procedure. *Id.* at 4-5. Defendant contends that the Complaint is “confusing and difficult to interpret” and, as such, it is unclear what statutory authority Plaintiff is relying upon for his purported appeal. *Id.* at 5. In addition, Plaintiff’s failure to submit any additional briefing has not provided any further clarification to the allegations in the Complaint. *Id.*

The Court is mindful that Plaintiff is representing himself *pro se*, which is certainly his right to do; although, by electing to do so, he has assumed a very difficult task. *See Terzian v. Lombardi*, 180 A.3d 555, 558 (R.I. 2018). Even though “*pro se* litigants are often granted greater latitude by [a] court, they are not exempt from our rules.” *Oliveira v. Levesque*, 294 A.3d 994, 998 (R.I. 2023) (citing *Terzian*, 180 A.3d at 558-59); *see also Bryant v. Wall*, 896 A.2d 704, 709 (R.I. 2006) (“it would be improper for a hearing justice to set aside our rules of evidence and procedure”). Furthermore, the Court “cannot and will not entirely overlook established rules of procedure, adherence to which is necessary so that parties may know their rights, that the real issue in controversy may be presented and determined, and that the business of the courts may be carried on with reasonable dispatch.” *Oliveira*, 294 A.3d at 998. (quoting *Terzian*, 180 A.3d at 559).

In this case, the Complaint is not broken down into separate counts, nor is the Complaint comprised of any numbered paragraphs setting forth Plaintiff’s separate factual allegations which does not comport with Rule 10(b) of the Superior Court Rules of Civil Procedure. *See generally* Compl.; *see also* Super. R. Civ. P. 10(b). Instead, the Complaint is comprised of three, single-spaced, and lengthy paragraphs that are nearly impossible to decipher to ascertain the relief Plaintiff is seeking from the Court. *See* Compl. 1-7. While the Court is mindful that Plaintiff is a *pro se* litigant, and that the task of drafting a complaint that comports with our Rules of Civil Procedure is not necessarily an easy one, the Court is unable to discern the claims of relief Plaintiff is asking for from the Court in the Complaint. Moreover, Plaintiff does not include any factual allegations in the Complaint as to why the Decision of the DBR is not in compliance with the standards enumerated in § 42-35-15, nor does the Complaint include any statutory basis for this Court’s review of the Decision or the relief Plaintiff is seeking pursuant to § 42-35-15. *See generally id.*

Although Plaintiff is not required to draft the Complaint with a high degree of factual specificity, Plaintiff is required to provide some degree of clarity in his allegations so that the DBR has fair and adequate notice of the type of claims being asserted, which the Complaint simply does not do. *See Hyatt*, 880 A.2d at 823; *see also* Super. R. Civ. P. 8(a). While *pro se* litigants are often given some leeway with their adherence to the Superior Court Rules of Civil Procedure, the Court is not permitted to completely overlook our rules of evidence and procedure and unfairly benefit the Plaintiff because “[b]oth sides have a legitimate expectation of a level playing field.” *Jenkins v. City of East Providence*, 293 A.3d 1267, 1271 (R.I. 2023). Therefore, after reviewing the Complaint and assuming all allegations set forth are true and resolving any doubts in Plaintiff’s favor, it is not clear beyond a reasonable doubt that Plaintiff would be entitled to any relief from Defendant under any set of conceivable facts that could be proven in support of Plaintiff’s claims. *See Chase*, 160 A.3d at 973.

#### IV

#### Conclusion

For the foregoing reasons, the Court hereby **GRANTS** Defendant’s Motion to Dismiss pursuant to Rule 12(b)(6).



**RHODE ISLAND SUPERIOR COURT**  
*Decision Addendum Sheet*

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**TITLE OF CASE:** Dale Rankin v. The Department of Business Regulation

**CASE NO:** PC-2020-02161

**COURT:** Providence County Superior Court

**DATE DECISION FILED:** August 4, 2023

**JUSTICE/MAGISTRATE:** Cruise, J.

**ATTORNEYS:**

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Providence, RI 02911

**For Defendant:** Sara Tindall-Woodman, Esq.